

# Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and Federal Rules of Evidence

Effective December 1, 2010

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Middle District of Alabama



On April 28, 2010, the Supreme Court of the United States approved the following rules and forms amendments and new rule, as approved by the Judicial Conference in September 2009:

- Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001, 9001 and new Rule 5012
- Appellate Rules 1, 4, and 29, and Form 4
- Civil Rules 8, 26, and 56, and Illustrative Civil Form 52
- Criminal Rules 12.3, 21, and 32.1
- Evidence Rule 804
- Official Forms 9A, 9C, 9I, 20A, 20B, 22A, 22B, and 22C

The rules and forms amendments were transmitted Congress in accordance with the Rules Enabling Act, and will take effect on December 1, 2010, unless Congress enacts legislation to the contrary.

For further information regarding rule changes, please visit the U.S. Court Rulemaking page located at <http://www.uscourts.gov/RulesAndPolicies/FederalRulemaking/Overview.aspx>.

## Amendments to Federal Rules of Bankruptcy Procedure

- [Bankruptcy Rule 1007](#) -
  1. Shortens to 7 days the time for a debtor to file a list of creditors after the entry of an order for relief in an involuntary case.
  2. Extends the time for an individual chapter 7 debtor to file a statement of completion of a course in personal financial management from 45 days to 60 days after the first date set for the §341 meeting of creditors.
- [Bankruptcy Rule 1019](#) – Redesignates subdivision 2 as subdivision 2(A) and adds subdivision 2(B). With some exceptions, provides a new time period to object to a claim of exemptions under [Rule 4003\(b\)](#) when a case is converted to chapter 7 from chapter 11, 12, or 13.
  1. The new time period does not apply if the conversion occurs more than one year after the entry of the first order confirming a plan, or if the case was previously pending under chapter 7 and the objection period had expired in the original chapter 7 case.
- [Bankruptcy Rule 4004](#) -
  1. Subdivisions (a) and (c)(1) are amended to allow objections to discharge pursuant to [727\(a\)\(8\)](#), [\(a\)\(9\)](#) and [1328\(f\)](#) to be filed by motion (rather than complaint) in chapter 7 and 13 cases against debtors who have been granted a discharge in a previously filed case. Subdivision (d) is amended to provide that such objections are commenced by motion and treated as contested matters under [Rule 9014](#).
    - No fee will be required.
    - The deadline for filing a motion/objection is no later than 60 days after the first date set for the §341 meeting.
    - The time parameters are measured from case commencement (case filing date) to the new filing date of the subsequent case (It is not measured from the discharge date of the previous case).

2. Adds Subdivision c(4) directing the court in chapter 11 and 13 cases to withhold the entry of discharge if the debtor has not filed a statement of completion of a course concerning personal financial management as required by [Rule 1007\(b\)\(7\)](#).
- [Bankruptcy Rule 7001](#) - Objections to discharge under §§ 727(a)(8), (a)(9), and § 1328(f) are to be commenced by motion rather than by complaint, corresponding to the proposed amendment to Rule 4004.
  - [Bankruptcy Rule 5009](#) –
    1. Adds new subdivision (b) requiring the clerk to provide notice to individual debtors in chapter 7 and 13 cases that their cases may be closed without discharge if they fail to file a statement of completion of a course in personal financial management within the time limits under [Rule 1007\(c\)](#). The notice will be sent only if the statement has not been filed within 45 days after the first date set for the § 341 meeting of creditors.
      1. In chapter 7 cases, the statement will be due within 60 days of the first date set for the § 341 hearing (see amended rule 1007 above).
      2. In chapter 13 cases, the statement is due no later than the date the last payment is made under the plan, or the filing of a motion for discharge under [§ 1328\(b\)](#).
    2. Adds Subdivision (c) requiring a foreign representative in a chapter 15 case to file and give notice of the filing of a final report.
  - [Bankruptcy Rule 4001](#) - Technical and conforming amendment on the computation of time.
    1. Subdivision (d)(2) is amended to change the time period for filing objections to certain motions from 15 to 14 days of the mailing of notice.
    2. Subdivision (d)(3) is amended to change the length of notice required for certain hearings from five to seven days.
  - [Bankruptcy Rule 1014](#) - Includes chapter 15 cases in the rule that authorizes the court to determine where cases should go forward when multiple petitions involving the same debtor are pending.

- [Bankruptcy Rule 1015](#) - Includes chapter 15 cases in the rule that authorizes the court to order consolidation or joint administration of cases.
- [Bankruptcy Rule 1018](#) - Reflects enactment of chapter 15 in 2005.
- [Bankruptcy Rule 5012](#) - New rule establishing procedures in chapter 15 cases for obtaining approval of an agreement regarding communications and coordinating of proceedings with cases involving the debtor pending in other countries.
- [Bankruptcy Rule 9001](#) - Amended to add [§ 1502](#) to the list of definitions.
- Official Forms [9A](#), [9C](#), and [9I](#) - Technical changes that conform to the amendments to Bankruptcy Rules 4004 and 7001. These forms are amended in the “Deadlines” section on the front and the “Discharge of Debts” section on the back.
- Official Forms [20A](#) and [20B](#) - Technical and conforming amendments instructing the filer to list all names used by the debtor in the last eight, rather than six, years, and to redact not only the debtor’s social security number, but also the debtor’s individual taxpayer identification number.
- Official Forms [22A](#), [22B](#), and [22C](#) –
  1. Forms 22A and 22C are amended in several places to delete references to “household” and “household size” and to replace them with “number of persons” or “family size.” (Form 22A at lines 19A, 19B, 20A, and 20B; Form 22C at lines 24A, 24B, 25A, and 25B).
  2. Form 22A is also amended to add an instruction to line 8 to clarify that only one joint filer should report regular payments by another person for household expenses. Forms 22B and 22C are similarly amended on line 7 of each form.
  3. The introductory instruction to Part I of Form 22A is amended to give debtors in joint case the choice of filing separate forms if they believe they are required to do so by § 707(b)(2)(C) of the Bankruptcy Code.

## **Federal Rules of Appellate Procedure**

- Appellate Rule 1 - Definition of "state".
- Appellate Rule 4 - Corrects cross-reference to Civil Rule 58(a).
- Appellate Rule 29 - Conforms to recently revised Supreme Court Rule 37.6 on amicus briefs.
- Appellate Form 4 - Conforms to new privacy rules.

## **Federal Rules of Civil Procedure**

- Civil Rule 8 - Deletes "discharge in bankruptcy" as an affirmative defense.
- Civil Rule 26 - Discovery of expert witness.
- Civil Rule 56 - Summary judgment.
- Illustrative Civil Form 52 - Technical and conforming amendment.

## **Federal Rules of Criminal Procedure**

- Criminal Rule 12.3 - Implements the Crime Victims' Rights Act.
- Criminal Rule 21 - Implements the Crime Victims' Rights Act.
- Criminal Rule 32.1 - Clarifies standard and burden of proof regarding the release or detention of a person on probation or supervised release.

## **Federal Rules of Evidence**

- Evidence Rule 804 - Extends corroborating circumstances requirement to all declarations against penal interest offered in criminal cases. Publication of proposed Restyled Evidence Rules 101-415 was deferred until the entire restyled Federal Rules of Evidence have been approved for publication.

## AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

### **Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits**

(a) CORPORATE OWNERSHIP STATEMENT,  
LIST OF CREDITORS AND EQUITY SECURITY  
HOLDERS, AND OTHER LISTS.

\* \* \* \* \*

(2) *Involuntary Case.* In an involuntary case,  
the debtor shall file, within seven days after entry of the  
order for relief, a list containing the name and address of  
each entity included or to be included on Schedules D, E,  
F, G, and H as prescribed by the Official Forms.

\* \* \* \* \*

(c) TIME LIMITS. In a voluntary case, the  
schedules, statements, and other documents required by  
subdivision (b)(1), (4), (5), and (6) shall be filed with the  
petition or within 14 days thereafter, except as otherwise  
provided in subdivisions (d), (e), (f), and (h) of this rule.  
In an involuntary case, the list in subdivision (a)(2), and  
the schedules, statements, and other documents required

by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to

the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

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#### **Rule 1014. Dismissal and Change of Venue**

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(b) PROCEDURE WHEN PETITIONS INVOLVING THE SAME DEBTOR OR RELATED DEBTORS ARE FILED IN DIFFERENT COURTS. If petitions commencing cases under the Code or seeking recognition under chapter 15 are filed in different districts by, regarding, or against (1) the same debtor, (2) a partnership and one or more of its general partners, (3) two or more general partners, or (4) a debtor and an



affiliate, on motion filed in the district in which the petition filed first is pending and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, the court may determine, in the interest of justice or for the convenience of the parties, the district or districts in which the case or cases should proceed. Except as otherwise ordered by the court in the district in which the petition filed first is pending, the proceedings on the other petitions shall be stayed by the courts in which they have been filed until the determination is made.

**Rule 1015. Consolidation or Joint Administration of Cases Pending in Same Court**

(a) CASES INVOLVING SAME DEBTOR. If two or more petitions by, regarding, or against the same debtor are pending in the same court, the court may order consolidation of the cases.

\* \* \* \* \*

**Rule 1018. Contested Involuntary Petitions;  
Contested Petitions Commencing Chapter 15 Cases;  
Proceedings to Vacate Order for Relief;  
Applicability of Rules in Part VII Governing  
Adversary Proceedings**

Unless the court otherwise directs and except as otherwise prescribed in Part I of these rules, the following rules in Part VII apply to all proceedings contesting an involuntary petition or a chapter 15 petition for recognition, and to all proceedings to vacate an order for relief: Rules 7005, 7008-7010, 7015, 7016, 7024-7026, 7028-7037, 7052, 7054, 7056, and 7062. The court may direct that other rules in Part VII shall also apply. For the purposes of this rule a reference in the Part VII rules to adversary proceedings shall be read as a reference to proceedings contesting an involuntary petition or a chapter 15 petition for recognition, or proceedings to vacate an order for relief. Reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.

**Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case**

When a chapter 11, chapter 12, or chapter 13 case has been converted or reconverted to a chapter 7 case:

\* \* \* \* \*

*(2) New Filing Periods.*

(A) A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002, 4004, or 4007, but a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.

(B) A new time period for filing an objection to a claim of exemptions shall commence under Rule 4003(b) after conversion of a case to chapter 7 unless:

(i) the case was converted to chapter 7 more than one year after the entry of the first order confirming a plan under chapter 11, 12, or 13; or

(ii) the case was previously pending in chapter 7 and the time to object to a claimed exemption had expired in the original chapter 7 case.

\* \* \* \* \*

**Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements**

\* \* \* \* \*

(d) AGREEMENT RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT.

\* \* \* \* \*

(2) *Objection.* Notice of the motion and the time within which objections may be filed and served on the debtor in possession or trustee shall be mailed to the parties on whom service is required by paragraph (1) of this subdivision and to such other entities as the court may direct. Unless the court fixes a different time, objections may be filed within 14 days of the mailing of the notice.

(3) *Disposition; Hearing.* If no objection is filed, the court may enter an order approving or disapproving the agreement without conducting a hearing. If an objection is filed or if the court determines a hearing is appropriate, the court shall hold a hearing on no less than seven days' notice to the objector, the movant, the parties on whom service is required by paragraph (1) of this subdivision and such other entities as the court may direct.

\* \* \* \* \*

#### **Rule 4004. Grant or Denial of Discharge**

(a) TIME FOR OBJECTING TO DISCHARGE;  
NOTICE OF TIME FIXED. In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (a)(9) of the

Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

\* \* \* \* \*

(c) GRANT OF DISCHARGE.

(1) In a chapter 7 case, on expiration of the times fixed for objecting to discharge and for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless:

(A) the debtor is not an individual;

(B) a complaint, or a motion under  
§ 727(a)(8) or (a)(9), objecting to the

discharge has been filed and not  
decided in the debtor's favor;

\* \* \* \* \*

(4) In a chapter 11 case in which the debtor is an individual, or a chapter 13 case, the court shall not grant a discharge if the debtor has not filed any statement required by Rule 1007(b)(7).

(d) APPLICABILITY OF RULES IN PART VII AND RULE 9014. An objection to discharge is governed by Part VII of these rules, except that an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f) is commenced by motion and governed by Rule 9014.

\* \* \* \* \*

**Rule 5009. Closing Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, Chapter 13 Individual's Debt Adjustment, and Chapter 15 Ancillary and Cross-Border Cases**

(a) CASES UNDER CHAPTERS 7, 12, AND 13. If in a chapter 7, chapter 12, or chapter 13 case the trustee has filed a final report and final account and has certified that the estate has been fully administered, and if within 30 days no objection has been filed by the United States

trustee or a party in interest, there shall be a presumption that the estate has been fully administered.

(b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7) STATEMENT. If an individual debtor in a chapter 7 or 13 case has not filed the statement required by Rule 1007(b)(7) within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the statement is filed within the applicable time limit under Rule 1007(c).

(c) CASES UNDER CHAPTER 15. A foreign representative in a proceeding recognized under § 1517 of the Code shall file a final report when the purpose of the representative's appearance in the court is completed. The report shall describe the nature and results of the representative's activities in the court. The foreign representative shall transmit the report to the United States trustee, and give notice of its filing to the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor was a party at



the time of the filing of the petition, and such other entities as the court may direct. The foreign representative shall file a certificate with the court that notice has been given. If no objection has been filed by the United States trustee or a party in interest within 30 days after the certificate is filed, there shall be a presumption that the case has been fully administered.

**Rule 5012. Agreements Concerning Coordination of Proceedings in Chapter 15 Cases**

Approval of an agreement under § 1527(4) of the Code shall be sought by motion. The movant shall attach to the motion a copy of the proposed agreement or protocol and, unless the court directs otherwise, give at least 30 days' notice of any hearing on the motion by transmitting the motion to the United States trustee, and serving it on the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519, all parties to litigation pending in the United States in which the debtor was a party at the time of the filing of the petition, and such other entities as the court may direct.

### **Rule 7001. Scope of Rules of Part VII**

An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:

\* \* \* \* \*

(4) a proceeding to object to or revoke a discharge, other than an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f);

\* \* \* \* \*

### **Rule 9001. General Definitions**

The definitions of words and phrases in §§ 101, 902, 1101, and 1502 of the Code, and the rules of construction in § 102, govern their use in these rules. In addition, the following words and phrases used in these rules have the meanings indicated:

\* \* \* \* \*